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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,945	03/13/2002	Hideto Furuta	356882001200	4691
7590	11/18/2005		EXAMINER	
BARRY E. BRETSCHNEIDER MORRISON & FOERSTER LLP 1650 TYSONS BLVD., SUITE 300 MCLEAN, VA 22102			AZAD, ABUL K	
			ART UNIT	PAPER NUMBER
			2654	

DATE MAILED: 11/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/070,945	FURUTA, HIDETO	
	Examiner	Art Unit	
	ABUL K. AZAD	2654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 August 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Response to Amendment

1. This action is in response to the communication filed on August 25, 2005.
2. Claims 1-5 are pending in this action. Claims 1-5 have been amended.
3. The applicant's arguments with respect to claims 1-5 have been fully considered but they are not deemed to be persuasive. For examiner's response to the applicant's arguments or comments, see the detailed discussion in the Response to the Arguments section.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1, 2, 4 and 5 are rejected under 35 U.S.C. 102(a) as being anticipated by Fujioka et al. (JP 2000-56827).

As per claim 1, Fujioka teaches, "a voice attachment control apparatus for a construction machine which has an attachment element connected to actuators and an operating member in an operator cab, the operating member operating the attachment element and the control apparatus comprising an electronic control apparatus effecting a desired expansion/contraction displacement of the attachment in accordance with operation of the operating member", comprising:

“speech analysis means for speech-analyzing a voice command representative of an instruction by voice regarding a movement of said attachment element”(Fig. 1, element 221A);

“speech discrimination means, connected to said speech analysis means, for discriminating the instruction of the voice command” (Fig. 1, element 221C); and

“machine body control means, connected to said speech discrimination means, and controlling movement of said attachment element based on the instruction” (Fig. 1).

As per claim 2, Fujiooka teaches, “said machine body control means sets values relating to a movement position and a speed of said attachment element” (Fig. 1, element 221).

As per claim 4, Fujiooka teaches, “a voice attachment control method for operating a shear connected to actuators for grasping an object and rotating an attachment element”, comprising:

“analyzing a voice command representative of an instruction by voice regarding a movement of said attachment element to discriminate the instruction of the voice command and performing a first movement of said actuators” (Fig. 1, elements 221A, 221D and page 5),

“stopping said shear once after analyzing the voice command and analyzing, after the stopping said shear, another voice command to discriminate a second instruction of the voice command and performing a second movement of said actuators based on the second instruction” (page 5).

As per claim 5, Fujioka teaches, "voice attachment control method for operating a shear connected to actuators for grasping an object and rotating an attachment element", comprising:

"analyzing a voice command representative of an instruction by voice regarding an interlocking movement of said attachment element which includes a plurality of movements to be performed simultaneously to discriminate the instruction of the voice command and performing the interlocking movement of said actuators, based on the instruction" (Pages 4 and 5).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fujioka et al. (JP 2000-56827) as applied to claim 1 above, and further in view of Masashi (JP 09-265298).

As per claim 3, Fujioka does not explicitly teach a synthesis means. However, Masashi teaches a synthesis means (See section Solution). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a synthesis means as teaches by Masashi in the invention of Fujioka because Masashi teaches his invention improves the safety of the operating of a crane truck.

Response to Arguments

8. In response to applicant's arguments, the recitations "an operating member in an operator cab, the operating member operating the attachment element and the control apparatus comprising an electronic control apparatus effecting a desired expansion/contraction displacement of the attachment in accordance with operation of the operating member" and "a voice attachment control method for operating a shear connected to actuators for grasping an object and rotating an attachment element" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Abul K. Azad** whose telephone number is **(571) 272-7599**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Richemond Dorvil**, can be reached at **(571) 272-7602**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Or faxed to: **(571) 273-8300**.

Hand-delivered responses should be brought to **401 Dulany Street, Alexandria, VA-22314** (Customer Service Window).

Art Unit: 2654

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 8, 2005



Abul K. Azad
Primary Examiner
Art Unit 2654